

1 AMENDMENT TO HOUSE BILL 64

2 AMENDMENT NO. _____. Amend House Bill 64 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Mental Health and Developmental
5 Disabilities Administrative Act is amended by changing
6 Sections 4, 7, and 15 as follows:

7 (20 ILCS 1705/4) (from Ch. 91 1/2, par. 100-4)

8 Sec. 4. Supervision of facilities and services;
9 quarterly reports.

10 (a) To exercise executive and administrative supervision
11 over all facilities, divisions, programs and services now
12 existing or hereafter acquired or created under the
13 jurisdiction of the Department, including, but not limited
14 to, the following:

15 The Alton Mental Health Center, at Alton

16 The Clyde L. Choate Mental Health and Developmental
17 Center, at Anna

18 The Chester Mental Health Center, at Chester

19 The Chicago-Read Mental Health Center, at Chicago

20 The Elgin Mental Health Center, at Elgin

21 The Metropolitan Children and Adolescents Center, at
22 Chicago

1 The Jacksonville Developmental Center, at
2 Jacksonville

3 The Governor Samuel H. Shapiro Developmental Center,
4 at Kankakee

5 The Tinley Park Mental Health Center, at Tinley Park

6 The Warren G. Murray Developmental Center, at
7 Centralia

8 The Jack Mabley Developmental Center, at Dixon

9 The Lincoln Developmental Center, at Lincoln

10 The H. Douglas Singer Mental Health and
11 Developmental Center, at Rockford

12 The John J. Madden Mental Health Center, at Chicago

13 The George A. Zeller Mental Health Center, at Peoria

14 The Andrew McFarland Mental Health Center, at
15 Springfield

16 The Adolf Meyer Mental Health Center, at Decatur

17 The William W. Fox Developmental Center, at Dwight

18 The Elisabeth Ludeman Developmental Center, at Park
19 Forest

20 The William A. Howe Developmental Center, at Tinley
21 Park

22 The Ann M. Kiley Developmental Center, at Waukegan.

23 (b) Beginning not later than July 1, 1977, the
24 Department shall cause each of the facilities under its
25 jurisdiction which provide in-patient care to comply with
26 standards, rules and regulations of the Department of Public
27 Health prescribed under Section 6.05 of the Hospital
28 Licensing Act.

29 (c) The Department shall issue quarterly reports on
30 admissions, deflections, discharges, bed closures,
31 staff-resident ratios, census, and average length of stay,
32 and any adverse federal certification or accreditation
33 findings, if any, for each State-operated facility for the
34 mentally ill and developmentally disabled.

1 (Source: P.A. 91-357, eff. 7-29-99; 91-652, eff. 12-1-99.)

2 (20 ILCS 1705/7) (from Ch. 91 1/2, par. 100-7)

3 Sec. 7. To receive and provide the highest possible
4 quality of humane and rehabilitative care and treatment to
5 all persons admitted or committed or transferred in
6 accordance with law to the facilities, divisions, programs,
7 and services under the jurisdiction of the Department. No
8 resident of another state shall be received or retained to
9 the exclusion of any resident of this State. No resident of
10 another state shall be received or retained to the exclusion
11 of any resident of this State. All recipients of 17 years of
12 age and under in residence in a Department facility other
13 than a facility for the care of the mentally retarded shall
14 be housed in quarters separated from older recipients except
15 for: (a) recipients who are placed in medical-surgical units
16 because of physical illness; and (b) recipients between 13
17 and 18 years of age who need temporary security measures.

18 All recipients in a Department facility shall be given a
19 dental examination by a licensed dentist or registered dental
20 hygienist at least once every 18 months and shall be assigned
21 to a dentist for such dental care and treatment as is
22 necessary.

23 All medications administered to recipients shall be
24 administered only by those persons who are legally qualified
25 to do so by the laws of the State of Illinois. Medication
26 shall not be prescribed until a physical and mental
27 examination of the recipient has been completed. If, in the
28 clinical judgment of a physician, it is necessary to
29 administer medication to a recipient before the completion of
30 the physical and mental examination, he may prescribe such
31 medication but he must file a report with the facility
32 director setting forth the reasons for prescribing such
33 medication within 24 hours of the prescription. A copy of the

1 report shall be part of the recipient's record.

2 No later than January 1, 2002, the Department shall adopt
3 a model protocol and forms for recording all patient
4 diagnosis, care, and treatment at every facility under the
5 jurisdiction of the Department. The model protocol and forms
6 shall be used by each facility unless the Department
7 determines that equivalent alternatives justify an exemption.

8 Every facility under the jurisdiction of the Department
9 shall maintain a copy of each report of suspected abuse or
10 neglect of the patient. Copies of those reports shall be made
11 available to the State Auditor General in connection with his
12 biennial program audit of the facility as required by Section
13 3-2 of the Illinois State Auditing Act.

14 No later than January 1, 2002, every facility under the
15 jurisdiction of the Department and all services provided in
16 those facilities shall comply with all of the applicable
17 standards adopted by the Social Security Administration under
18 Subchapter XVIII (Medicare) of the Social Security Act (42
19 U.S.C. 1395 - 1395ccc), if the facility and services may be
20 eligible for federal financial participation under that
21 federal law.

22 (Source: P.A. 86-922; 86-1013; 86-1475.)

23 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

24 Sec. 15. Before any person is released from a facility
25 operated by the State pursuant to an absolute discharge or a
26 conditional discharge from hospitalization under this Act,
27 the facility director of the facility in which such person is
28 hospitalized shall determine that such person is not
29 currently in need of hospitalization and:

30 (a) is able to live independently in the community;

31 or

32 (b) requires further oversight and supervisory care
33 for which arrangements have been made with responsible

1 relatives or supervised residential program approved by
2 the Department; or

3 (c) requires further personal care or general
4 oversight as defined by the Nursing Home Care Act, for
5 which placement arrangements have been made with a
6 suitable family home or other licensed facility approved
7 by the Department under this Section; or

8 (d) requires community mental health services for
9 which arrangements have been made with a suitable
10 community mental health provider in accordance with
11 criteria, standards, and procedures promulgated by rule.
12 The suitable community mental health provider shall be
13 selected from among the Department's contractual
14 designees.

15 Such determination shall be made in writing and shall
16 become a part of the facility record of such absolutely or
17 conditionally discharged person. When the determination
18 indicates that the condition of the person to be granted an
19 absolute discharge or a conditional discharge is described
20 under subparagraph (c) or (d) of this Section, the name and
21 address of the continuing care facility or home to which such
22 person is to be released shall be entered in the facility
23 record. Where a discharge from a mental health facility is
24 made under subparagraph (c), the Department shall assign the
25 person so discharged to an existing community based
26 not-for-profit agency for participation in day activities
27 suitable to the person's needs, such as but not limited to
28 social and vocational rehabilitation, and other recreational,
29 educational and financial activities unless the community
30 based not-for-profit agency is unable ~~unqualified~~ to accept
31 such assignment. Where the clientele of any not-for-profit
32 agency increases as a result of assignments under this
33 amendatory Act of 2001 ~~1977-by-more-than-3%-over-the-prior~~
34 ~~year~~, the Department shall fully reimburse such agency for

1 the increased costs of providing services to such persons in
2 excess-of-such-3%-increase. The Department shall keep written
3 records detailing how many persons have been assigned to a
4 community based not-for-profit agency and how many persons
5 were not so assigned because the community based agency was
6 unable to accept the assignments, in accordance with
7 criteria, standards, and procedures promulgated by rule.
8 Whenever a community based agency is found to be unable to
9 accept the assignments, the name of the agency and the reason
10 for the finding shall be included in the report.

11 Insofar as desirable in the interests of the former
12 recipient, the facility, program or home in which the
13 discharged person is to be placed shall be located in or near
14 the community in which the person resided prior to
15 hospitalization or in the community in which the person's
16 family or nearest next of kin presently reside. Placement of
17 the discharged person in facilities, programs or homes
18 located outside of this State shall not be made by the
19 Department unless there are no appropriate facilities,
20 programs or homes available within this State. Out-of-state
21 placements shall be subject to return of recipients so placed
22 upon the availability of facilities, programs or homes within
23 this State to accommodate these recipients, except where
24 placement in a contiguous state results in locating a
25 recipient in a facility or program closer to the recipient's
26 home or family. If an appropriate facility or program
27 becomes available equal to or closer to the recipient's home
28 or family, the recipient shall be returned to and placed at
29 the appropriate facility or program within this State.

30 To place any person who is under a program of the
31 Department at board in a suitable family home or in such
32 other facility or program as the Department may consider
33 desirable. The Department may place in licensed nursing
34 homes, sheltered care homes, or homes for the aged those

1 persons whose behavioral manifestations and medical and
2 nursing care needs are such as to be substantially
3 indistinguishable from persons already living in such
4 facilities. Prior to any placement by the Department under
5 this Section, a determination shall be made by the personnel
6 of the Department, as to the capability and suitability of
7 such facility to adequately meet the needs of the person to
8 be discharged. When specialized programs are necessary in
9 order to enable persons in need of supervised living to
10 develop and improve in the community, the Department shall
11 place such persons only in specialized residential care
12 facilities which shall meet Department standards including
13 restricted admission policy, special staffing and programming
14 for social and vocational rehabilitation, in addition to the
15 requirements of the appropriate State licensing agency. The
16 Department shall not place any new person in a facility the
17 license of which has been revoked or not renewed on grounds
18 of inadequate programming, staffing, or medical or adjunctive
19 services, regardless of the pendency of an action for
20 administrative review regarding such revocation or failure to
21 renew. Before the Department may transfer any person to a
22 licensed nursing home, sheltered care home or home for the
23 aged or place any person in a specialized residential care
24 facility the Department shall notify the person to be
25 transferred, or a responsible relative of such person, in
26 writing, at least 30 days before the proposed transfer, with
27 respect to all the relevant facts concerning such transfer,
28 except in cases of emergency when such notice is not
29 required. If either the person to be transferred or a
30 responsible relative of such person objects to such transfer,
31 in writing to the Department, at any time after receipt of
32 notice and before the transfer, the facility director of the
33 facility in which the person was a recipient shall
34 immediately schedule a hearing at the facility with the

1 presence of the facility director, the person who objected to
2 such proposed transfer, and a psychiatrist who is familiar
3 with the record of the person to be transferred. Such person
4 to be transferred or a responsible relative may be
5 represented by such counsel or interested party as he may
6 appoint, who may present such testimony with respect to the
7 proposed transfer. Testimony presented at such hearing shall
8 become a part of the facility record of the
9 person-to-be-transferred. The record of testimony shall be
10 held in the person-to-be-transferred's record in the central
11 files of the facility. If such hearing is held a transfer may
12 only be implemented, if at all, in accordance with the
13 results of such hearing. Within 15 days after such hearing
14 the facility director shall deliver his findings based on the
15 record of the case and the testimony presented at the
16 hearing, by registered or certified mail, to the parties to
17 such hearing. The findings of the facility director shall be
18 deemed a final administrative decision of the Department. For
19 purposes of this Section, "case of emergency" means those
20 instances in which the health of the person to be transferred
21 is imperiled and the most appropriate mental health care or
22 medical care is available at a licensed nursing home,
23 sheltered care home or home for the aged or a specialized
24 residential care facility.

25 Prior to placement of any person in a facility under this
26 Section the Department shall ensure that an appropriate
27 training plan for staff is provided by the facility. Said
28 training may include instruction and demonstration by
29 Department personnel qualified in the area of mental illness
30 or mental retardation, as applicable to the person to be
31 placed. Training may be given both at the facility from
32 which the recipient is transferred and at the facility
33 receiving the recipient, and may be available on a continuing
34 basis subsequent to placement. In a facility providing

1 services to former Department recipients, training shall be
2 available as necessary for facility staff. Such training
3 will be on a continuing basis as the needs of the facility
4 and recipients change and further training is required.

5 The Department shall not place any person in a facility
6 which does not have appropriately trained staff in sufficient
7 numbers to accommodate the recipient population already at
8 the facility. As a condition of further or future placements
9 of persons, the Department shall require the employment of
10 additional trained staff members at the facility where said
11 persons are to be placed. The Secretary, or his or her
12 designate, shall establish written guidelines for placement
13 of persons in facilities under this Act. The Department shall
14 keep written records detailing which facilities have been
15 determined to have appropriately trained staff, which
16 facilities have been determined not to have such staff, and
17 all training which it has provided or required under this
18 Section.

19 Bills for the support for a person boarded out shall be
20 payable monthly out of the proper maintenance funds and shall
21 be audited as any other accounts of the Department. If a
22 person is placed in a facility or program outside the
23 Department, the Department may pay the actual costs of
24 residence, treatment or maintenance in such facility and may
25 collect such actual costs or a portion thereof from the
26 recipient or the estate of a person placed in accordance with
27 this Section.

28 Other than those placed in a family home the Department
29 shall cause all persons who are placed in a facility, as
30 defined by the Nursing Home Care Act, or in designated
31 community living situations or programs, to be visited at
32 least once during the first month following placement, and
33 once every month thereafter for the first year following
34 placement when indicated, but at least quarterly. After the

1 first year, visits shall be made at least once per year for
2 as long as the placement continues. If a long term care
3 facility has periodic care plan conferences, the visitor may
4 participate in those conferences. Visits shall be made by
5 qualified and trained Department personnel, or their
6 contractual designee, in the area of mental health or
7 developmental disabilities applicable to the person visited,
8 and shall be made on a more frequent basis when indicated.
9 The Department may not use as designee any personnel
10 connected with or responsible to the representatives of any
11 facility in which persons who have been transferred under
12 this Section are placed. In the course of such visit there
13 shall be consideration of the following areas, but not
14 limited thereto: effects of transfer on physical and mental
15 health of the person, sufficiency of nursing care and medical
16 coverage required by the person, sufficiency of staff
17 personnel and ability to provide basic care for the person,
18 social, recreational and programmatic activities available
19 for the person, and other appropriate aspects of the person's
20 environment. The contractual process with the Department's
21 contractual designee shall identify the necessary services in
22 a treatment plan, the resource requirements to provide those
23 services, and the parties responsible for providing those
24 resources.

25 A report containing the above observations shall be made
26 to the Department and to any other appropriate agency
27 subsequent to each visitation. The report shall contain a
28 detailed assessment of whether the recipient is receiving
29 necessary services in the least restrictive environment. If
30 the recipient is not receiving those services, the Department
31 shall either require that the facility modify the treatment
32 plan to ensure that those services are provided or make
33 arrangements necessary to provide those services elsewhere.
34 At--the--conclusion--of--one--year--following---absolute---or

1 conditional-discharge, or a longer period of time if required
2 by---the---Department,---the--Department--may--terminate--the
3 visitation-requirements-of-this-Section-as-to-a-person-placed
4 in--accordance--with--this--Section,--by--filing--a---written
5 statement---of---termination---setting---forth---reasons---to
6 substantiate--the--termination-of-visitations-in-the-person's
7 file, and sending a copy thereof to the person, and to his
8 guardian or next of kin.

9 Upon the complaint of any person placed in accordance
10 with this Section or any responsible citizen or upon
11 discovery that such person has been abused, neglected, or
12 improperly cared for, or that the placement does not provide
13 the type of care required by the recipient's current
14 condition, the Department immediately shall investigate, and
15 determine if the well-being, health, care, or safety of any
16 person is affected by any of the above occurrences, and if
17 any one of the above occurrences is verified, the Department
18 shall remove such person at once to a facility of the
19 Department or to another facility outside the Department,
20 provided such person's needs can be met at said facility.
21 The Department may also provide any person placed in
22 accordance with this Section who is without available funds,
23 and who is permitted to engage in employment outside the
24 facility, such sums for the transportation, and other
25 expenses as may be needed by him until he receives his wages
26 for such employment.

27 The Department shall promulgate rules and regulations
28 governing the purchase of care for persons who are wards of
29 or who are receiving services from the Department. Such
30 rules and regulations shall apply to all monies expended by
31 any agency of the State of Illinois for services rendered by
32 any person, corporate entity, agency, governmental agency or
33 political subdivision whether public or private outside of
34 the Department whether payment is made through a contractual,

1 per-diem or other arrangement. No funds shall be paid to any
2 person, corporation, agency, governmental entity or political
3 subdivision without compliance with such rules and
4 regulations.

5 The rules and regulations governing purchase of care
6 shall describe categories and types of service deemed
7 appropriate for purchase by the Department.

8 Any provider of services under this Act may elect to
9 receive payment for those services, and the Department is
10 authorized to arrange for that payment, by means of direct
11 deposit transmittals to the service provider's account
12 maintained at a bank, savings and loan association, or other
13 financial institution. The financial institution shall be
14 approved by the Department, and the deposits shall be in
15 accordance with rules and regulations adopted by the
16 Department.

17 The Department shall keep written records of the number
18 of persons it places in long term care facilities each year.
19 The records shall include the name and address of each
20 facility and the diagnosis of each individual so placed.

21 (Source: P.A. 89-507, eff. 7-1-97; 90-423, eff. 8-15-97.)

22 Section 10. The Abused and Neglected Long Term Care
23 Facility Residents Reporting Act is amended by changing
24 Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8 as follows:

25 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

26 (Section scheduled to be repealed on January 1, 2002)

27 Sec. 6.2. Inspector General.

28 (a) The Governor shall appoint, and the Senate shall
29 confirm, an Inspector General. The Inspector General shall
30 be appointed for a term of 4 years and who shall function
31 within the Department of Human Services and report to the
32 Secretary of Human Services and the Governor. The Inspector

1 General shall function independently within the Department of
2 Human Services with respect to the operations of the office,
3 including the performance of investigations and issuance of
4 findings and recommendations. The Inspector General shall
5 independently submit to the Governor any request for
6 appropriations necessary for the ordinary and contingent
7 expenses of the Office of Inspector General, and
8 appropriations for that office shall be separate from the
9 Department of Human Services. The Inspector General shall
10 investigate reports of suspected abuse or neglect (as those
11 terms are defined in Section 3 of this Act) of patients or
12 residents in any mental health or developmental disabilities
13 facility operated by the Department of Human Services and
14 shall have authority to investigate and take immediate action
15 on reports of abuse or neglect of recipients, whether
16 patients or residents, in any mental health or developmental
17 disabilities facility or program that is licensed or
18 certified by the Department of Human Services (as successor
19 to the Department of Mental Health and Developmental
20 Disabilities) or that is funded by the Department of Human
21 Services (as successor to the Department of Mental Health and
22 Developmental Disabilities) and is not licensed or certified
23 by any agency of the State. At the specific, written request
24 of an agency of the State other than the Department of Human
25 Services (as successor to the Department of Mental Health and
26 Developmental Disabilities), the Inspector General may
27 cooperate in investigating reports of abuse and neglect of
28 persons with mental illness or persons with developmental
29 disabilities. The Inspector General shall have no
30 supervision over or involvement in routine, programmatic,
31 licensure, or certification operations of the Department of
32 Human Services or any of its funded agencies.

33 The Inspector General shall promulgate rules establishing
34 minimum requirements for reporting allegations of abuse and

1 neglect and initiating, conducting, and completing
2 investigations. The promulgated rules shall clearly set
3 forth that in instances where 2 or more State agencies could
4 investigate an allegation of abuse or neglect, the Inspector
5 General shall not conduct an investigation that is redundant
6 to an investigation conducted by another State agency. The
7 rules shall establish criteria for determining, based upon
8 the nature of the allegation, the appropriate method of
9 investigation, which may include, but need not be limited to,
10 site visits, telephone contacts, or requests for written
11 responses from agencies. The rules shall also clarify how
12 the Office of the Inspector General shall interact with the
13 licensing unit of the Department of Human Services in
14 investigations of allegations of abuse or neglect. Any
15 allegations or investigations of reports made pursuant to
16 this Act shall remain confidential until a final report is
17 completed. The resident or patient who allegedly was abused
18 or neglected and his or her legal guardian shall be informed
19 by the facility or agency of the report of alleged abuse or
20 neglect. Final reports regarding unsubstantiated or unfounded
21 allegations shall remain confidential, except that final
22 reports may be disclosed pursuant to Section 6 of this Act.

23 ~~The Inspector General shall be appointed for a term of 4~~
24 ~~years.~~

25 (b) The Inspector General shall within 24 hours after
26 receiving a report of suspected abuse or neglect determine
27 whether the evidence indicates that any possible criminal act
28 has been committed. If he determines that a possible criminal
29 act has been committed, or that special expertise is required
30 in the investigation, he shall immediately notify the
31 Department of State Police. The Department of State Police
32 shall investigate any report indicating a possible murder,
33 rape, or other felony. All investigations conducted by the
34 Inspector General shall be conducted in a manner designed to

1 ensure the preservation of evidence for possible use in a
2 criminal prosecution.

3 (b-5) The Inspector General shall make a determination
4 to accept or reject a preliminary report of the investigation
5 of alleged abuse or neglect based on established
6 investigative procedures. The facility or agency may request
7 clarification or reconsideration based on additional
8 information. For cases where the allegation of abuse or
9 neglect is substantiated, the Inspector General shall require
10 the facility or agency to submit a written response. The
11 written response from a facility or agency shall address in a
12 concise and reasoned manner the actions that the agency or
13 facility will take or has taken to protect the resident or
14 patient from abuse or neglect, prevent reoccurrences, and
15 eliminate problems identified and shall include
16 implementation and completion dates for all such action.

17 (c) The Inspector General shall, within 10 calendar days
18 after the transmittal date of a completed investigation where
19 abuse or neglect is substantiated or administrative action is
20 recommended, provide a complete report on the case to the
21 Secretary of Human Services and to the agency in which the
22 abuse or neglect is alleged to have happened. The complete
23 report shall include a written response from the agency or
24 facility operated by the State to the Inspector General that
25 addresses in a concise and reasoned manner the actions that
26 the agency or facility will take or has taken to protect the
27 resident or patient from abuse or neglect, prevent
28 reoccurrences, and eliminate problems identified and shall
29 include implementation and completion dates for all such
30 action. The Secretary of Human Services shall accept or
31 reject the response and establish how the Department will
32 determine whether the facility or program followed the
33 approved response. The Secretary may require Department
34 personnel to visit the facility or agency for training,

1 technical assistance, programmatic, licensure, or
2 certification purposes. Administrative action, including
3 sanctions, may be applied should the Secretary reject the
4 response or should the facility or agency fail to follow the
5 approved response. The facility or agency shall inform the
6 resident or patient and the legal guardian whether the
7 reported allegation was substantiated, unsubstantiated, or
8 unfounded. There shall be an appeals process for any person
9 or agency that is subject to any action based on a
10 recommendation or recommendations.

11 (d) The Inspector General may recommend to the
12 Departments of Public Health and Human Services sanctions to
13 be imposed against mental health and developmental
14 disabilities facilities under the jurisdiction of the
15 Department of Human Services for the protection of residents,
16 including appointment of on-site monitors or receivers,
17 transfer or relocation of residents, and closure of units.
18 The Inspector General may seek the assistance of the Attorney
19 General or any of the several State's attorneys in imposing
20 such sanctions. Whenever the Inspector General issues any
21 recommendations to the Secretary of Human Services, the
22 Secretary shall provide a written response.

23 (e) The Inspector General shall establish and conduct
24 periodic training programs for Department of Human Services
25 employees concerning the prevention and reporting of neglect
26 and abuse.

27 (f) The Inspector General shall at all times be granted
28 access to any mental health or developmental disabilities
29 facility operated by the Department of Human Services, shall
30 establish and conduct unannounced site visits to those
31 facilities at least once annually, and shall be granted
32 access, for the purpose of investigating a report of abuse or
33 neglect, to the records of the Department of Human Services
34 and to any facility or program funded by the Department of

1 Human Services that is subject under the provisions of this
2 Section to investigation by the Inspector General for a
3 report of abuse or neglect.

4 (g) Nothing in this Section shall limit investigations
5 by the Department of Human Services that may otherwise be
6 required by law or that may be necessary in that Department's
7 capacity as the central administrative authority responsible
8 for the operation of State mental health and developmental
9 disability facilities.

10 ~~{h}--This-Section-is-repealed-on-January-17-2002-~~
11 (Source: P.A. 90-252, eff. 7-29-97; 90-512, eff. 8-22-97;
12 90-655, eff. 7-30-98; 91-169, eff. 7-16-99.)

13 (210 ILCS 30/6.3) (from Ch. 111 1/2, par. 4166.3)

14 (Section scheduled to be repealed on January 1, 2002)

15 Sec. 6.3. Quality Care Board. There is created, within
16 the ~~Department-of-Human-Services~~ Office of the Inspector
17 General, a Quality Care Board to be composed of 7 members
18 appointed by the Governor with the advice and consent of the
19 Senate. One of the members shall be designated as chairman
20 by the Governor. Of the initial appointments made by the
21 Governor, 4 Board members shall each be appointed for a term
22 of 4 years and 3 members shall each be appointed for a term
23 of 2 years. Upon the expiration of each member's term, a
24 successor shall be appointed for a term of 4 years. In the
25 case of a vacancy in the office of any member, the Governor
26 shall appoint a successor for the remainder of the unexpired
27 term.

28 Members appointed by the Governor shall be qualified by
29 professional knowledge or experience in the area of law,
30 investigatory techniques, or in the area of care of the
31 mentally ill or developmentally disabled. Two members
32 appointed by the Governor shall be persons with a disability
33 or a parent of a person with a disability. Members shall

1 serve without compensation, but shall be reimbursed for
2 expenses incurred in connection with the performance of their
3 duties as members.

4 The Board shall meet quarterly, and may hold other
5 meetings on the call of the chairman. Four members shall
6 constitute a quorum. The Board may adopt rules and
7 regulations it deems necessary to govern its own procedures.

8 ~~This Section is repealed on January 17, 2002.~~

9 (Source: P.A. 91-169, eff. 7-16-99.)

10 (210 ILCS 30/6.4) (from Ch. 111 1/2, par. 4166.4)

11 (Section scheduled to be repealed on January 1, 2002)

12 Sec. 6.4. Scope and function of the Quality Care Board.
13 The Board shall monitor and oversee the operations, policies,
14 and procedures of the Inspector General to assure the prompt
15 and thorough investigation of allegations of neglect and
16 abuse. In fulfilling these responsibilities, the Board may
17 do the following:

18 (1) Provide independent, expert consultation to the
19 Inspector General on policies and protocols for
20 investigations of alleged neglect and abuse.

21 (2) Review existing regulations relating to the
22 operation of facilities under the control of the
23 Department of Human Services.

24 (3) Advise the Inspector General as to the content
25 of training activities authorized under Section 6.2.

26 (4) Recommend policies concerning methods for
27 improving the intergovernmental relationships between the
28 office of the Inspector General and other State or
29 federal agencies.

30 ~~This Section is repealed on January 17, 2002.~~

31 (Source: P.A. 91-169, eff. 7-16-99.)

32 (210 ILCS 30/6.5) (from Ch. 111 1/2, par. 4166.5)

1 (Section scheduled to be repealed on January 1, 2002)

2 Sec. 6.5. Investigators. ~~Within--60--days--after--the~~
3 ~~effective--date--of--this--amendatory--Act--of--1992,~~ the Inspector
4 General shall establish a comprehensive program to ensure
5 that every person employed or newly hired to conduct
6 investigations shall receive training on an on-going basis
7 concerning investigative techniques, communication skills,
8 and the appropriate means of contact with persons admitted or
9 committed to the mental health or developmental disabilities
10 facilities under the jurisdiction of the Department of Human
11 Services.

12 ~~This Section is repealed on January 17, 2002.~~

13 (Source: P.A. 91-169, eff. 7-16-99.)

14 (210 ILCS 30/6.6) (from Ch. 111 1/2, par. 4166.6)

15 (Section scheduled to be repealed on January 1, 2002)

16 Sec. 6.6. Subpoenas; testimony; penalty. The Inspector
17 General shall have the power to subpoena witnesses and compel
18 the production of books and papers pertinent to an
19 investigation authorized by this Act, provided that the power
20 to subpoena or to compel the production of books and papers
21 shall not extend to the person or documents of a labor
22 organization or its representatives insofar as the person or
23 documents of a labor organization relate to the function of
24 representing an employee subject to investigation under this
25 Act. Mental health records of patients shall be confidential
26 as provided under the Mental Health and Developmental
27 Disabilities Confidentiality Act. Any person who fails to
28 appear in response to a subpoena or to answer any question or
29 produce any books or papers pertinent to an investigation
30 under this Act, except as otherwise provided in this Section,
31 or who knowingly gives false testimony in relation to an
32 investigation under this Act is guilty of a Class A
33 misdemeanor.

1 ~~This Section is repealed on January 17, 2002.~~

2 (Source: P.A. 91-169, eff. 7-16-99.)

3 (210 ILCS 30/6.7) (from Ch. 111 1/2, par. 4166.7)

4 (Section scheduled to be repealed on January 1, 2002)

5 Sec. 6.7. Annual report. The Inspector General shall
6 provide to the General Assembly and the Governor, no later
7 than January 1 of each year, a summary of reports and
8 investigations made under this Act for the prior fiscal year
9 with respect to residents of institutions under the
10 jurisdiction of the Department of Human Services. The report
11 shall detail the imposition of sanctions and the final
12 disposition of those recommendations. The summaries shall
13 not contain any confidential or identifying information
14 concerning the subjects of the reports and investigations.
15 The report shall also include a trend analysis of the number
16 of reported allegations and their disposition, for each
17 facility and Department-wide, for the most recent 3-year time
18 period and a statement, for each facility, of the
19 staffing-to-patient ratios. The ratios shall include only
20 the number of direct care staff. The report shall also
21 include detailed recommended administrative actions and
22 matters for consideration by the General Assembly.

23 ~~This Section is repealed on January 17, 2002.~~

24 (Source: P.A. 91-169, eff. 7-16-99.)

25 (210 ILCS 30/6.8) (from Ch. 111 1/2, par. 4166.8)

26 (Section scheduled to be repealed on January 1, 2002)

27 Sec. 6.8. Program audit. The Auditor General shall
28 conduct a biennial program audit of the office of the
29 Inspector General in relation to the Inspector General's
30 compliance with this Act. The audit shall specifically
31 include the Inspector General's effectiveness in
32 investigating reports of alleged neglect or abuse of

1 residents in any facility operated by the Department of Human
2 Services and in making recommendations for sanctions to the
3 Departments of Human Services and Public Health. The Auditor
4 General shall conduct the program audit according to the
5 provisions of the Illinois State Auditing Act and shall
6 report its findings to the General Assembly no later than
7 January 1 of each odd-numbered year.

8 ~~This Section is repealed on January 17, 2002.~~

9 (Source: P.A. 91-169, eff. 7-16-99.).

10 Section 15. The Nursing Home Care Act is amended by
11 changing Sections 2-106, 2-106.1, and 3-203 as follows:

12 (210 ILCS 45/2-106) (from Ch. 111 1/2, par. 4152-106)

13 Sec. 2-106. (a) For purposes of this Act, (i) a physical
14 restraint is any manual method or physical or mechanical
15 device, material, or equipment attached or adjacent to a
16 resident's body that the resident cannot remove easily and
17 restricts freedom of movement or normal access to one's body;
18 (ii) a chemical restraint is any drug used for discipline or
19 convenience and not required to treat medical symptoms. The
20 Department shall by rule, designate certain devices as
21 restraints, including at least all those devices which have
22 been determined to be restraints by the United States
23 Department of Health and Human Services in interpretive
24 guidelines issued for the purposes of administering Titles 18
25 and 19 of the Social Security Acts.

26 (b) Neither restraints nor confinements shall be
27 employed for the purpose of punishment or for the convenience
28 of any facility personnel. No restraints or confinements
29 shall be employed except as ordered by a physician who
30 documents the need for such restraints or confinements in the
31 resident's clinical record. Whenever a resident of an
32 institute for mental diseases is restrained, a member of the

1 facility staff shall remain with the resident at all times
2 unless the recipient has been confined. A resident who is
3 restrained and confined shall be observed by a qualified
4 person as often as is clinically appropriate but in no event
5 less often than once every 15 minutes.

6 (c) A restraint may be used only with the informed
7 consent of the resident, the resident's guardian, or other
8 authorized representative. A restraint may be used only for
9 specific periods, if it is the least restrictive means
10 necessary to attain and maintain the resident's highest
11 practicable physical, mental or psychosocial well-being,
12 including brief periods of time to provide necessary
13 life-saving treatment. A restraint may be used only after
14 consultation with appropriate health professionals, such as
15 occupational or physical therapists, and a trial of less
16 restrictive measures has led to the determination that the
17 use of less restrictive measures would not attain or maintain
18 the resident's highest practicable physical, mental or
19 psychosocial well-being. However, if the resident needs
20 emergency care, restraints may be used for brief periods to
21 permit medical treatment to proceed unless the facility has
22 notice that the resident has previously made a valid refusal
23 of the treatment in question.

24 (d) A restraint may be applied only by a person trained
25 in the application of the particular type of restraint.

26 (e) Whenever a period of use of a restraint is
27 initiated, the resident shall be advised of his or her right
28 to have a person or organization of his or her choosing,
29 including the Guardianship and Advocacy Commission, notified
30 of the use of the restraint. A recipient who is under
31 guardianship may request that a person or organization of his
32 or her choosing be notified of the restraint, whether or not
33 the guardian approves the notice. If the resident so
34 chooses, the facility shall make the notification within 24

1 hours, including any information about the period of time
2 that the restraint is to be used. Whenever the Guardianship
3 and Advocacy Commission is notified that a resident has been
4 restrained, it shall contact the resident to determine the
5 circumstances of the restraint and whether further action is
6 warranted.

7 (f) Whenever a restraint is used on a resident whose
8 primary mode of communication is sign language, the resident
9 shall be permitted to have his or her hands free from
10 restraint for brief periods each hour, except when this
11 freedom may result in physical harm to the resident or
12 others.

13 (g) The requirements of this Section are intended to
14 control in any conflict with the requirements of Sections
15 1-126 and 2-108 of the Mental Health and Developmental
16 Disabilities Code.

17 (Source: P.A. 88-413.)

18 (210 ILCS 45/2-106.1)

19 Sec. 2-106.1. Drug treatment.

20 (a) A resident shall not be given unnecessary drugs. An
21 unnecessary drug is any drug used in an excessive dose,
22 including in duplicative therapy; for excessive duration;
23 without adequate monitoring; without adequate indications for
24 its use; or in the presence of adverse consequences that
25 indicate the drugs should be reduced or discontinued. The
26 Department shall adopt, by rule, the standards for
27 unnecessary drugs contained in interpretive guidelines issued
28 by the United States Department of Health and Human Services
29 for the purposes of administering titles 18 and 19 of the
30 Social Security Act.

31 (b) Psychotropic medication shall not be prescribed
32 without the informed consent of the resident, the resident's
33 guardian, or other authorized representative. "Psychotropic

1 medication" means medication that is used for or listed as
2 used for antipsychotic, antidepressant, antimanic, or
3 antianxiety behavior modification or behavior management
4 purposes in the latest editions of the AMA Drug Evaluations
5 or the Physician's Desk Reference.

6 (c) The requirements of this Section are intended to
7 control in a conflict with the requirements of Sections 2-102
8 ~~1-102~~ and 2-107.2 of the Mental Health and Developmental
9 Disabilities Code with respect to the administration of
10 psychotropic medication.

11 (Source: P.A. 88-413.)

12 (210 ILCS 45/3-203) (from Ch. 111 1/2, par. 4153-203)

13 Sec. 3-203. In licensing any facility for persons with a
14 developmental disability or persons suffering from mental
15 illness (other than Alzheimer's disease or related disorders)
16 ~~emotional--or--behavioral--disorders~~, the Department shall
17 consult with the Department of Human Services in developing
18 minimum standards for such persons.

19 (Source: P.A. 88-380; 89-507, eff. 7-1-97.)

20 Section 99. Effective date. This Section, the changes
21 to Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, and 6.8 of the
22 Abused and Neglected Long Term Care Facility Residents
23 Reporting Act, and the changes to Section 3-203 of the
24 Nursing Home Care Act take effect upon becoming law."